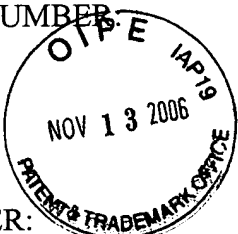


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: WILLMAN et al.
SERIAL NUMBER: 10/729,895
FILED: December 5, 2003
FOR: Outcome Prediction and Risk Classification in
Childhood Leukemia
EXAMINER: Laura B. Goddard
GROUP ART UNIT: 1642



Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Response to Restriction Requirement

In response to the Examiner's office action dated September 7, 2006, pursuant to the Examiner's restriction requirement in the above-referenced patent application, Applicants provisionally elect with traverse to prosecute the invention of group 1, consisting of claims 1-3, 7-8, 14 and 15 which are drawn to an isolated OPAL 1 polynucleotide and a pharmaceutical composition comprising a polynucleotide of claim 1, classified in class 536, subclass 23.1. In addition, Applicants elect with traverse to prosecute a species corresponding to the single OPAL1 splice variant nucleic acid SEQ ID NO: 1 and the corresponding encoded protein SEQ ID NO:2. Claims 1-8 and 14-15 are readable on the elected species. In the alternative, at the request of Applicant and in the interest of an efficient examination of this application, Applicants respectfully request the Examiner to give consideration to examining all of the claims readable on an elected invention corresponding to both polynucleotides of SEQ ID NO:1 and SEQ ID NO:3, as well as the corresponding polypeptides SEQ ID NO: 2 and 4 for purposes of expediting prosecution of the present application. Claims 1-8 and 14-15 are readable on the combined species. Although the invention of groups I and II are considered patentably distinct, it is respectfully submitted that the polynucleotides and polypeptides corresponding thereto are so closely related that they may be examined together with a

significant degree of administrative efficiency. Moreover, the identical claims are readable on the two sets of species.

Notwithstanding Applicants' election, Applicant respectfully traverses the Examiner's requirement for restriction. Applicant respectfully requests the Examiner reconsider his restriction requirement. Applicant respectfully submits that prosecution of all of the originally filed claims should not be restricted to the elected invention, for the reasons which are set forth hereinbelow.

According to MPEP § 803, restriction by the Examiner of patentably distinct inventions is proper if the claimed inventions are independent and a *serious burden* would be placed on the Examiner if restriction was not required. Applicant respectfully submits that the presentation of all of the originally filed claims would not place such a serious burden on the Examiner as to require restriction. All of the original filed claims are related, though patentably distinct products or process have common utility. Moreover, all of the inventions are searchable in both the same classes 536 and 530, and subclasses 23.1 and 350.

Although the claimed invention groups are generally patentably distinct from each other, Applicant respectfully submits that any search the Examiner would need to conduct in examining the instant application and the examination itself would not be unduly burdensome. Moreover, the examination of all of the originally filed claims in the instant application would not place such a serious burden on the Examiner as to require restriction.

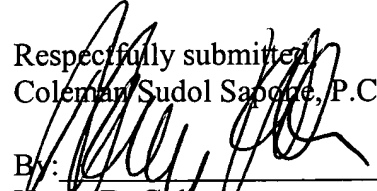
Applicants understand the general policy considerations for the Patent Office's requirement for restriction in certain instances. In this instance, however, those considerations do not weigh in favor of restricting the inventions here. In determining the appropriateness of restriction, one must also consider the countervailing consideration that, in each instance, Applicant wishes the Patent Office to examine his or her

application with a certain degree of "administrative efficiency" and wishes to have patent claims issue which reflect the breadth of his or her invention.

Applicants respectfully submit that the originally filed claims are sufficiently narrow to allow the Examiner to determine patentability without being subjected to the serious burden referred to in MPEP § 803. Consequently, Applicant respectfully requests that the Examiner withdraw the restriction requirement in its entirety. Alternatively, discussed above, Applicants respectfully request that the Examiner consider examining the species corresponding to both splice variants of OPAL 1 polynucleotide/polypeptide corresponding to SEQ ID NO:1, SEQ ID NO:2, SEQ ID NO:3 and SEQ ID NO:4.

The Examiner is cordially requested to call the undersigned attorney if the Examiner believes that a telephonic discussion may materially advance the prosecution of the instant application in any way. No fee is due for the presentation of this response. If any additional fee is due or any overpayment has been made, please debit or credit Deposit Account 04-0838. A petition for a one month extension of time and fee (\$120) is enclosed.

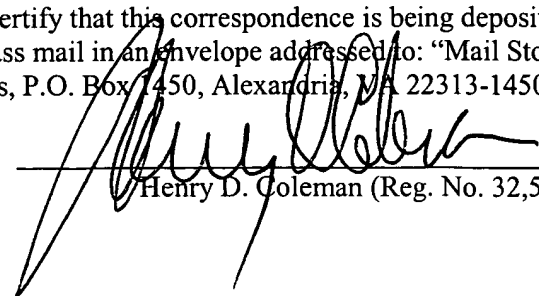
Respectfully submitted
Coleman/Sudol Sapone, P.C.

By: 
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Bridgeport, CT 06605-1601

Dated: 11/6/06

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on November 6, 2006.


Henry D. Coleman (Reg. No. 32,559)